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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 120706221-2705-02]

RIN 0648-XC881

Atlantic Highly Migratory Species; Commercial Atlantic Aggregated Large Coastal Shark (LCS), Atlantic Hammerhead Shark, Atlantic Blacknose Shark, and Atlantic Non-Blacknose Small Coastal Shark (SCS) Management Groups

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS is closing the commercial management groups for aggregated LCS and hammerhead sharks in the Atlantic region, and blacknose sharks and non-blacknose SCS in the Atlantic region.

This action is necessary because the commercial landings of Atlantic aggregated LCS and Atlantic blacknose sharks for the 2013 fishing season have reached, or are projected to reach, 80 percent of the available commercial quota as of September 13 and September 26, 2013, respectively.

DATES: The commercial Atlantic aggregated LCS and Atlantic

hammerhead shark management groups and the commercial Atlantic blacknose shark and Atlantic non-blacknose SCS management groups are closed effective 11:30 p.m. local time September 30, 2013 until the end of the 2013 fishing season on December 31, 2013 or until NMFS announces, via a notice in the Federal Register, that additional quota is available and the season is reopened.

FOR FURTHER INFORMATION CONTACT: Karyl Brewster-Geisz or Peter Cooper 301-427-8503; fax 301-713-1917.

SUPPLEMENTARY INFORMATION: The Atlantic shark fisheries are managed under the 2006 Consolidated Atlantic Highly Migratory Species (HMS) Fishery Management Plan (FMP), its amendments, and its implementing regulations (50 CFR part 635) issued under authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

Under § 635.5(b)(1), records of sharks that are first received by dealers from a vessel must be submitted electronically on a weekly basis through a NMFS-approved electronic reporting system by the dealer and received by NMFS no later than midnight, local time, of the first Tuesday following the end of the reporting week unless the dealer is otherwise notified by NMFS. Under § 635.28(b)(2), when NMFS calculates that the landings for any species and/or management

group of a linked group has reached or is projected to reach 80 percent of the available quota, NMFS will file for publication with the Office of the Federal Register a notice of closure for all of the species and/or management groups in a linked group that will be effective no fewer than 5 days from date of filing. From the effective date and time of the closure until NMFS announces, via a notice in the Federal Register, that additional quota is available and the season is reopened, the fishery for all linked species and/or management groups is closed, even across fishing years.

On July 3, 2013 (78 FR 40318), NMFS announced the final rule for Amendment 5a to the Consolidated Atlantic Highly Migratory Species (HMS) Fishery Management Plan (FMP), which, among other things, established new, final adjusted 2013 quotas for aggregated LCS, hammerhead sharks, blacknose sharks, and non-blacknose SCS in the Atlantic region. On September 2, 2013, NMFS transferred 68 metric tons (mt) dressed weight (dw) (149,914 lb dw) of non-blacknose SCS quota from the Atlantic region to the Gulf of Mexico region. Based on these two actions, the current adjusted quotas for the species noted above are as follows: the Atlantic aggregated LCS management group quota is 168.9 mt dw (372,552 lb dw), the Atlantic hammerhead

shark management group quota is 27.1 metric tons (mt) dressed weight (dw) (59,736 lb dw), the Atlantic blacknose shark management group quota is 18 metric tons (mt) dressed weight (dw) (39,749 lb dw), and the Atlantic non-blacknose SCS management group quota is 193.5 metric tons (mt) dressed weight (dw) (426,570 lb dw). Amendment 5a also linked quotas of certain management groups that contain shark species that are often caught together in the same fisheries. Under these linkages, linked shark management groups close when landings of one group have reached, or are expected to reach, 80 percent of the quota to prevent exceeding the quota of that management group through discarded bycatch. Currently, the regional aggregated LCS and hammerhead shark management groups are linked, and the regional blacknose shark and non-blacknose SCS management groups are linked.

Dealer reports received through September 13, 2013, indicate that 135.2 mt dw or 80 percent of the available Atlantic aggregated LCS quota has been landed, 11.7 mt dw or 43 percent of the available Atlantic hammerhead shark quota has been landed, 13.7 mt dw or 76 percent of the available Atlantic blacknose shark quota has been landed and that 90.6 mt dw or 47 percent of the available Atlantic non-blacknose SCS quota has

been landed. Projections indicate that 80 percent of the Atlantic blacknose shark quota will be landed by September 26, 2013. Based on these dealer reports, NMFS estimates that the 80-percent limit specified for a closure notice in the regulations has been, or will be, reached or exceeded for the Atlantic aggregated LCS and Atlantic blacknose shark management groups. Accordingly, because the Atlantic aggregated LCS and Atlantic hammerhead shark management groups are linked and the Atlantic blacknose shark and Atlantic non-blacknose shark management groups are linked, NMFS is closing the commercial aggregated LCS, hammerhead shark, blacknose shark, and non-blacknose SCS management groups in the Atlantic region as of 11:30 p.m. local time September 30, 2013. The only shark management groups that remain open are the shark research fishery, non-blacknose SCS and blacknose shark in the Atlantic region, blue shark, and pelagic sharks other than porbeagle and blue shark management groups.

The boundary between the Gulf of Mexico region and the Atlantic region is defined at § 635.27(b)(1) as a line beginning on the East Coast of Florida at the mainland at 25°20.4' N. lat, proceeding due east. Any water and land to the south and west of that boundary is considered, for the purposes of quota

monitoring and setting of quotas, to be within the Gulf of Mexico region.

During the closure, retention of aggregated LCS, hammerhead sharks, blacknose sharks, and non-blacknose SCS in the Atlantic region is prohibited for persons fishing aboard vessels issued a commercial shark limited access permit under § 635.4 - unless the vessel is properly permitted to operate as a charter vessel or headboat for HMS and is engaged in a for-hire trip, in which case the recreational retention limits for sharks and "no sale" provisions apply (§ 635.22(a) and (c)), or the vessel possesses a valid shark research permit under § 635.32 and a NMFS-approved observer is onboard. During the closure, a shark dealer issued a permit pursuant to § 635.4 may not purchase or receive aggregated LCS, hammerhead sharks, blacknose sharks, and/or non-blacknose SCS in the Atlantic region, except under specific circumstances as specified in § 635.32 (shark research fishery); § 635.28(b)(5) (sharks were harvested prior to the closure); or sharks were harvested by a state vessel that has fished only in state waters.

Classification

Pursuant to 5 U.S.C. 553(b)(3)(B), the Assistant Administrator for Fisheries, NOAA (AA), finds that providing

prior notice and public comment for this action is impracticable and contrary to the public interest because the fishery is currently underway and any delay in this action would result in overharvest of the quota and be inconsistent with management requirements and objectives. Similarly, affording prior notice and opportunity for public comment on this action is contrary to the public interest because if the quota is exceeded, the stock may be negatively affected and fishermen ultimately could experience reductions in the available quota and a lack of fishing opportunities in future seasons. For these reasons, the AA also finds good cause to waive the 30-day delay in effective

date pursuant to 5 U.S.C. 553(d)(3). This action is required under § 635.28(b)(2) and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 et seq.

Dated: September 25, 2013.

Kelly Denit,

Acting Deputy Director, Office of Sustainable Fisheries,
National Marine Fisheries Service.

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